| 1 | JUDGE SIPPEL: Exactly. |
|----|--|
| 2 | MR. LANGLEY: if that number is |
| 3 | smaller, the time frame will be shorter. |
| 4 | JUDGE SIPPEL: That's exactly what I'm |
| 5 | expecting. Now and anything I want to leave |
| 6 | this thought with you. Anything that you can do to |
| 7 | use me as a fulcrum or a lever on getting them to move |
| 8 | faster than they otherwise would like to, I'll be glad |
| 9 | to do it. All right? |
| 10 | MR. LANGLEY: I will take advantage of |
| 11 | that offer. |
| 12 | JUDGE SIPPEL: So anything if you need |
| 13 | help from me, I will, you know, as far as movement as |
| 14 | concerned no conclusions I'll be glad to help |
| 15 | you on that. |
| 16 | MR. LANGLEY: Thank you. |
| 17 | MR. SEIVER: Your Honor, I'm just going to |
| 18 | ask could we just have then perhaps in the record and |
| 19 | understandably, you know, as to what Mr. Langley wants |
| 20 | to do as to a date when this survey would be available |
| 21 | to us? And then we could work from that I mean |
| 22 | JUDGE SIPPEL: Well, I've got a not an |

unreasonable request but I've got a -- let's see if I 1 2 can find my schedule now. I had it here. Oh, I've got it scheduled. And exchanges 3 -- so by June 14th, we've got an exchange of summaries 4 of testifying experts. And then the deposition of 5 6 experts. 7 Well, certainly before those experts can do any work, they're going to have to have at least a, 8 you know, workable draft of this report. 9 going to have something to work with. Otherwise we're 10 not going to get anything out of them. 11 So I was thinking in terms of this being 12 February, the beginning of February, February, March, 13 April, May -- I would think that May 14th -- and it 14 doesn't have to be a final final. In other words, 15 they can tweak it a little bit to make it up to their, 16 you know, their professional satisfaction. 17 I would think by May 14th, the 18 substance of what that report is going to show should 19 be available, preferably, of course, in final form. 20 I mean that would really be ideal. So that's May 14th 21 22 of this year.

One last item, Your Honor. 1 MR. SEIVER: 2 If we have that -- I'm just concerned that I think that a lot of our discovery that we'll be submitting 3 tomorrow -- maybe not the, you know, how do you define 4 full capacity but that we have, probably would not get 5 answered until they've -- I could see them making a 6 reasonable objection saying well we can't do that 7 until after we've done the survey. 8 Yes. JUDGE SIPPEL: 9 MR. SEIVER: So I would expect the bulk of 10 a lot of our discovery -- probably documents as well 11 as interrogatories would not be answered sometime 12 until May 14th. 13 And that -- I'm just thinking that if 14 we're going to get so much stuff on that day, that 15 we'll be somewhat hamstrung to have our summaries and 16 our experts have done anything in 30 days. 17 I mean I'm not sure what we're going to 18 If we see it on five poles, that's one thing. 19 see. If we see it on 5,000, that's --20 21 JUDGE SIPPEL: Well, you've got -- I mean 22 I hear you. No, I hear what you're saying. But look,

1 if you got a -- I'm going to say a preliminary report 2 by May 14th. 3 And that means, you know, preliminary report means it's got to be substantially completed 4 but not complete complete -- if you get that ahead of 5 time before the exchange of the -- so that experts can 6 7 look at it. 8 And then you get an exchange -- well, you 9 can see what the order calls for. I'm looking at my 10 December 20 order --11 MR. SEIVER: Yes, Your Honor. 12 JUDGE SIPPEL: -- exchange of summaries 13 and curriculum vitae on the 14th of June. That's 30 days later. And then you've got -- you're not going 14 to then start deposing those experts until September. 15 And I deliberately left that open that 16 17 long to give everybody a chance to really chew on this 18 information, all this data. And to have everybody get 19 their ducks in a row. 20 And plus, you know, maybe take a day or 21 two at the beach. And then come back after Labor Day 22 and start being deposed. Now I, you know, I can't

think of a more reasonable way of doing it. 1 And yes, you are going, you know, you're 2 going to have to work out some informal discovery 3 arrangements in between. And I'm expecting that that 4 will be done in terms of accommodating. 5 And if you have a problem -- if you've got 6 a -- you know, there's a motion to compel, there's 7 provisions in the rules as you well know. 8 compel if you think you are not getting something. 9 MR. SEIVER: Your Honor, and I'm sorry to 10 make it more housekeeping --11 JUDGE SIPPEL: No problem. 12 know you gave us SEIVER: Ι 13 interrogatories and document requests. But I believe 14 there will probably be some fact witnesses of Gulf 15 Power that we would want to take depositions of. Even 16 though that wasn't prescribed in here, I would like to 17 make sure that we have the opportunity to do that. 18 And it might not -- I don't like to take 19 depositions in advance of getting documents and 20 I know some lawyers do like to do 21 interrogatories. 22 that.

But I think it would make more sense to 1 have their response, have them identify who the people 2 are that are knowledgeable. And then take the 3 depositions. 4 That's what I hear you. JUDGE SIPPEL: 5 I was thinking would be covered with the first wave of 6 the people who are interrogatories. Who are 7 responsible and what not. 8 The reason I put down the depositions of 9 the experts September 7th to 16th is so that they --10 everybody can plan their life around that so that they 11 know when they are going to be expected to do 12 something. 13 Fact witnesses, particularly witnesses who 14 are employees or officers of the parties to the case, 15 are going to be available on a much, you know, on a 16 shorter string, I'm assuming. 17 But you've got until November 11th to 18 you can complete discovery. That means 19 depositions any time. If you want to start sending 20 notices tomorrow you can do it. 21 As far as fact witnesses go, the experts 22

1 are the ones that I'm trying to protect. 2 MR. SEIVER: Yes, Your Honor. And so --3 as long as -- I understand that. And we will either do it before, during, or after. And we'll get the 4 fact witnesses done. 5 6 And then if what Mr. Langley is going to 7 do is give us on May 14th what might be a draft 8 report, could we give a date certain for a final 9 report, obviously subject to, you know, his request 10 that it be extended so we know when we're going to get 11 that? So I don't get a final report, you know, August 12 a week before deposition that might be 13 different. 14 JUDGE SIPPEL: Well, you're going to have 15 -- all right -- let me see what I've got here. 16 should be a provision in there that these witnesses 17 are going to have to turn over Rule 26 -- there you go 18 -- yes, the exchange of the summaries. And that's 19 going to have to be based on a -- but June 14th is the 20 exchange of the summaries. 21 Now they're going to have to have a very 22 good grasp of what the ultimate report is going to

1 show. I've got a preliminary report -- the only 2 reason I'm saying that is so that it can, as I said, 3 it can be refined a little bit. 4 But I don't mean to say that you're going 5 to get just a "first draft" on the 14th of May. 6 this becomes a problem, we'll just have to address it. 7 I'm relying on the good faith -- and I 8 think from what I'm hearing thus far, there's nothing 9 to say that this can't be done if everybody gets 10 cracking on it. And if you're having a problem, then 11 I'll listen to it. I'll listen to it. 12 So what do we want to do? I think we 13 ought to have another pre-hearing conference in 60 14 days. That would bring it up to -- why don't we do it 15 on April the 5th? That would be a status conference -16 - pre-hearing conference. 17 Now in the meantime, as I said, if you 18 need me for anything at all that relates to discovery 19

Now in the meantime, as I said, if you need me for anything at all that relates to discovery or relates to anything that is not getting done that you feel should be getting done, you can request a hearing -- a conference rather. You can file a motion to compel. And we'll, you know, we'll address it.

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22

| 1 | MR. SEIVER: Your Honor, I was just |
|----|--|
| 2 | looking ahead. I'm sorry. Just to make sure I |
| 3 | don't think I'm sorry, Your Honor, I hate to say |
| 4 | this. I will be in San Francisco. There is a |
| 5 | National NCTA show. And probably a lot of Commission |
| 6 | people will be there, too. |
| 7 | MR. LANGLEY: Can I come? |
| 8 | MR. SEIVER: You are always welcome, Eric. |
| 9 | JUDGE SIPPEL: March 29th, how about that? |
| 10 | MR. SEIVER: That's the Supreme Court |
| 11 | argument in Grokster and in Brand X in which we're |
| 12 | participants. |
| 13 | JUDGE SIPPEL: All right. How about April |
| 14 | 12th? You pick a date. |
| 15 | MR. SEIVER: Sorry, Your Honor. |
| 16 | JUDGE SIPPEL: I'd like to do it on a |
| 17 | Tuesday |
| 18 | MR. SEIVER: Tuesday is the better day. |
| 19 | JUDGE SIPPEL: of a week in April. |
| 20 | That's a better day for me. Usually for the parties, |
| 21 | too. |
| 22 | MR. SEIVER: April 12th works. |

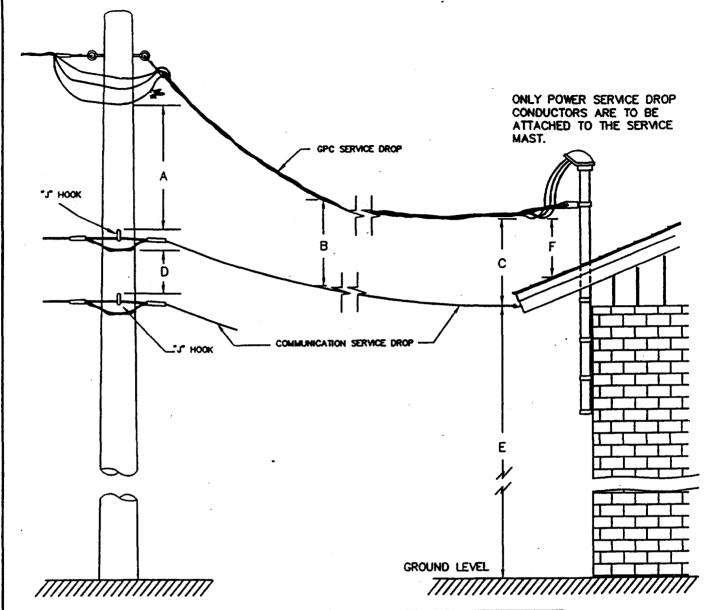
| 1 | MR. LANGLEY: That works for me. | |
|----|--|--|
| 2 | JUDGE SIPPEL: All right. If it turns out | |
| 3 | that, you know, time would spent better than doing it, | |
| 4 | I mean the conference could be turned off, could be | |
| 5 | called off rather if, you know, I'm getting reports | |
| 6 | and everything seems to be on target. | |
| 7 | I'm not trying to do this to keep your | |
| 8 | feet to the fire or anything. I'm just thinking that | |
| 9 | it might be useful for all of us to get back on these | |
| 10 | questions. | |
| 11 | But I think other than that, I'd like to | |
| 12 | leave everything the way it is for the time being. | |
| 13 | MR. SEIVER: All right, Your Honor. | |
| 14 | JUDGE SIPPEL: Anybody else have anything | |
| 15 | more? | |
| 16 | (No response.) | |
| 17 | JUDGE SIPPEL: Bureau? | |
| 18 | MS. LIEN: No, thank you, Your Honor. | |
| 19 | JUDGE SIPPEL: No? No? All right. We | |
| 20 | are in recess until 12 April. It will be at I'm sure | |
| 21 | nine-thirty or ten o'clock, whatever time I set it at. | |
| 22 | And in the meantime, as I say, I'm available to | |

| 1 | address any motions if you are having any problems. |
|----|---|
| 2 | And I'm very optimistic. I feel very |
| 3 | positive about how seriously the parties are taking |
| 4 | this. And I expect that there is going to be a lot of |
| 5 | production between now and the 12th of April. |
| 6 | Thank you very much. The record is |
| 7 | closed. |
| 8 | (Whereupon, the above-entitled pre-hearing |
| 9 | conference was concluded at 11:03 a.m.) |
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| Docket No. (if appl | icable) |
| 445 12 th STREET, S.W | ., WASHINGTON, D.C. |
| Place of Hearing | |
| JANUARY 31, 2005 | |
| Date of Hearing | |
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SEPARATION OF SERVICE DROPS

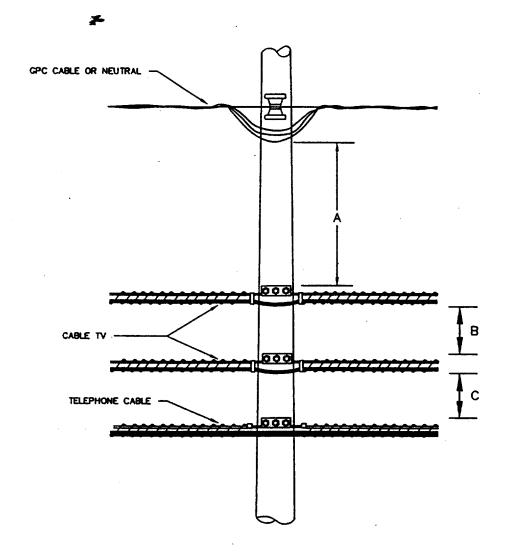


| DIMENSION LETTER | REQUIRED CLEARANCE | NESC APPLICABLE REFERENCE SECTION | |
|---------------------|-----------------------|--------------------------------------|--|
| A | 40 INCHES | TABLE 238-1, 238-8 | |
| В | 12 INCHES | 235 C1 EXCEPTION (3) | |
| С | 12 INCHES | 235 C1 EXCEPTION (3) | |
| D | 12 INCHES | GPC REQUIREMENT | |
| Ε | 9.5 FEET MIN. | TABLE 232-1 | |
| F | 18 INCHES | 234 C3 | |

NOTE: 1. CLEARANCE IS THE CLEAR DISTANCE BETWEEN TWO OBJECTS MEASURED SURFACE—TO—SURFACE

| DATE | GULF POWER COMPANY | PLATE |
|--------------|--------------------|------------|
| | 11/18/94 | C-1 |
| APPROVED 172 | 3/20/95 8/28/95 | O 1 |

SEPARATION AT POLE PARALLEL FACILITIES



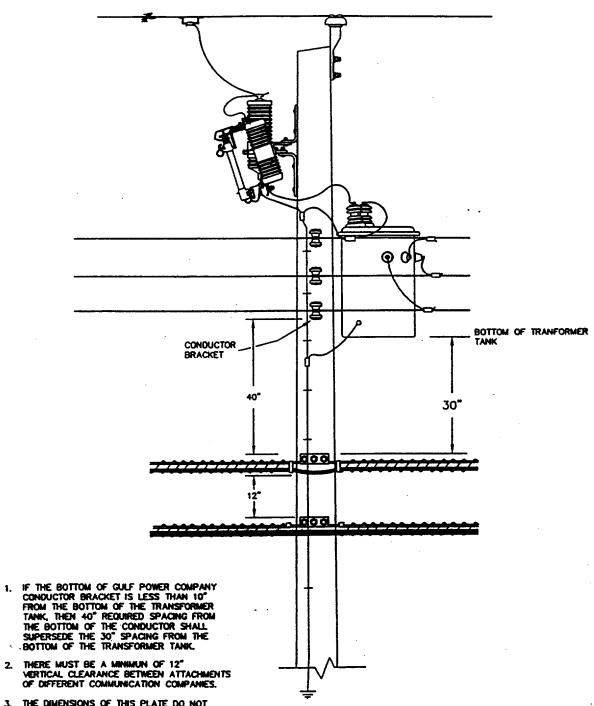
| DIMENSION (LETTER) | REQUIRED CLEARANCE | NESC APPLICABLE REFERENCE SECTION | |
|-----------------------|-----------------------|--------------------------------------|--|
| A | 40 INCHES | TABLE 238-1, 238-8 | |
| 8 | 12 INCHES | GPC REQUIREMENT | |
| С | 12 INCHES | GPC REQUIREMENT | |

NOTE: 1. CLEARANCE IS THE CLEAR DISTANCE BETWEEN TWO OBJECTS-MEASURED SUFACE—TO—SURFACE

| DATE 5/28/92 | GULF POWER COMPANY |
|----------------|--------------------|
| | 3/18/96 |
| APPROVED MIPTO | |

PLATE C-2

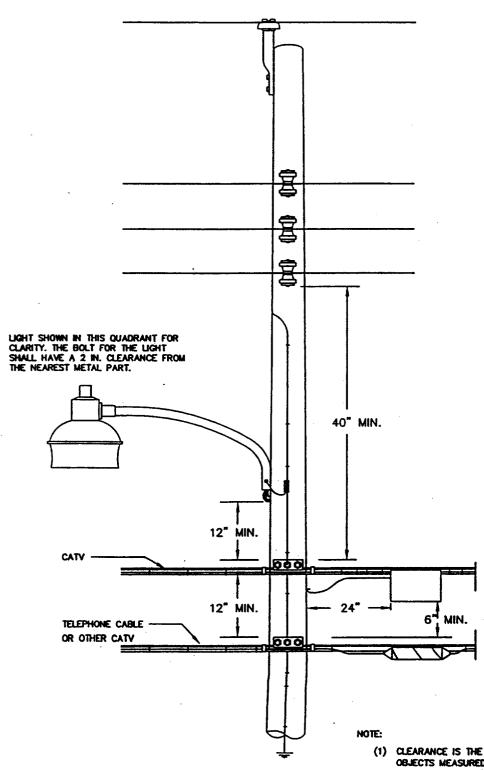
JOINT USE CONSTRUCTION TYPICAL SINGLE TRANSFORMER INSTALLATION 7.2 KV CONSTRUCTION



- 2. THERE MUST BE A MINIMUN OF 12° VERTICAL CLEARANCE BETWEEN ATTACHMENTS OF DIFFERENT COMMUNICATION COMPANIES.
- 3. THE DIMENSIONS OF THIS PLATE DO NOT SUPERCEDE ANY APPLICABLE NATIONAL ELECTRICAL SAFETY CODE REQUIREMENTS.
- 4. THIS IS A TYPICAL ATTACHMENT AND MAY NOT APPLY IN ALL CASES.

| DATE 3/28/84 | GULF POWER COMPANY | PLATE |
|-----------------------|--------------------|-------|
| ENG R.B. DRN E. L. W. | 5/28/92 3/18/96 | C-3 |
| APPROVED MRD | | U-3 |

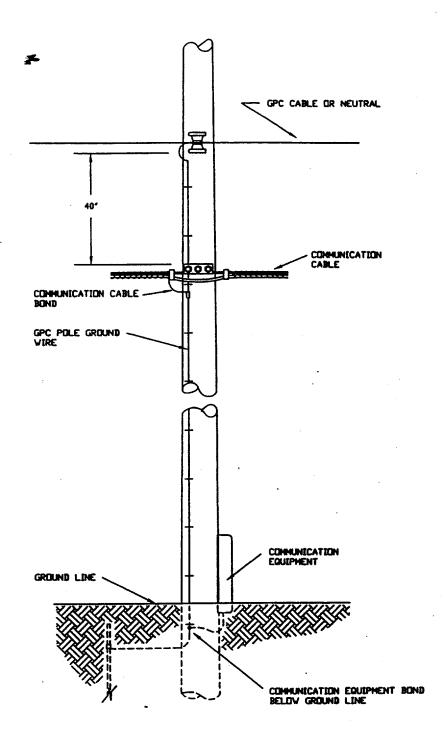
JOINT USE CONSTRUCTION TYPICAL ATTACHMENT OF CATV DISTRIBUTION SYSTEMS TO GPCO POLES TYPICAL OUTDOOR LIGHT INSTALLATION



- (1) CLEARANCE IS THE CLEAR DISTANCE BETMEEN TWO OBJECTS MEASURED SURFACE—TO—SURFACE.
- (2) THIS IS A TYPICAL ATTACHMENT AND MAY NOT APPLY IN ALL CASES.

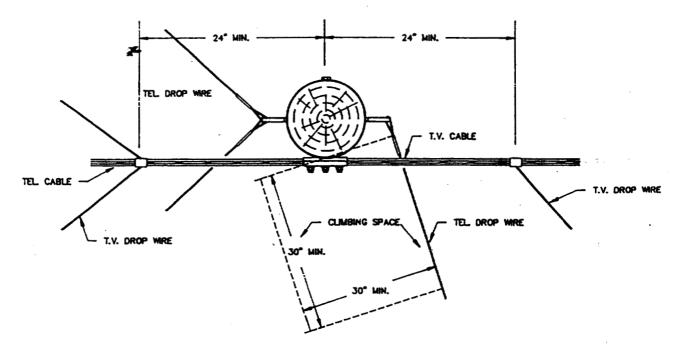
| ı | DATE | GULF POWER COMPANY | PLATE |
|---|----------------------------------|--|-----------|
| | ENG LW. ORN ELW. APPROVED ZITIZZ | 8/30/88 5/25/88 5/11/92 3/18/96 3/28/84 10/6/88 0.73/04 | C-4 |
| ı | APPROVED 2-77E2 | 9/23/94 | • . |

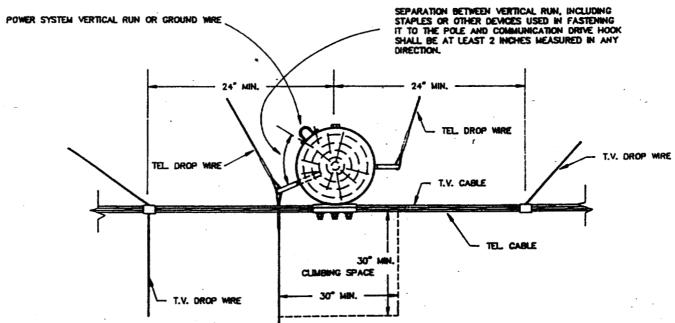
GROUNDING CONNECTIONS



| DATE 06/16/92 | GULF POWER COMPANY | PLATE |
|-----------------------|--------------------|-------|
| ENG R.B. DRN E. L. W. | 3/18/96 | CE |
| APPROVED MIRD | | U-5 |

JOINT USE CONSTRUCTION MINIMUM CLIMBING SPACE THROUGH COMMUNICATION CIRCUITS





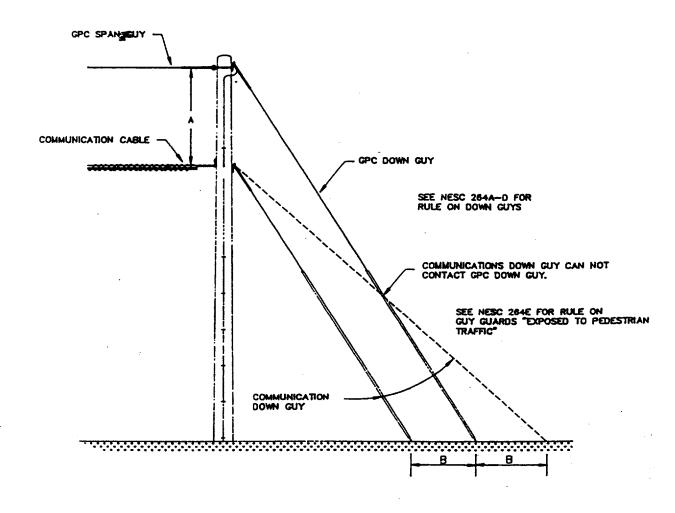
ALL COMMUNITY ANTENNA T.V. SERVICE DROPS TO BE MADE NO LESS THAN 24" EITHER DIRECTION FROM CENTER LINE OF POLE.

NOTE: (1.) THE DIMENSIONS OF THIS PLATE DO NOT SUPERSEDE ANY NATIONAL ELECTRICAL SAFETY CODE REQUIREMENTS.

(2.) THIS IS A TYPICAL ATTACHMENT AND MAY NOT APPLY IN ALL CASES.

| DATE 03/28/84 GULF POWER COMPANY | · PLATE |
|----------------------------------|---------|
| ENG | |
| APPROVED_FG.K 06/17/92 | U-6 |

SEPARATION OF DOWN GUYS

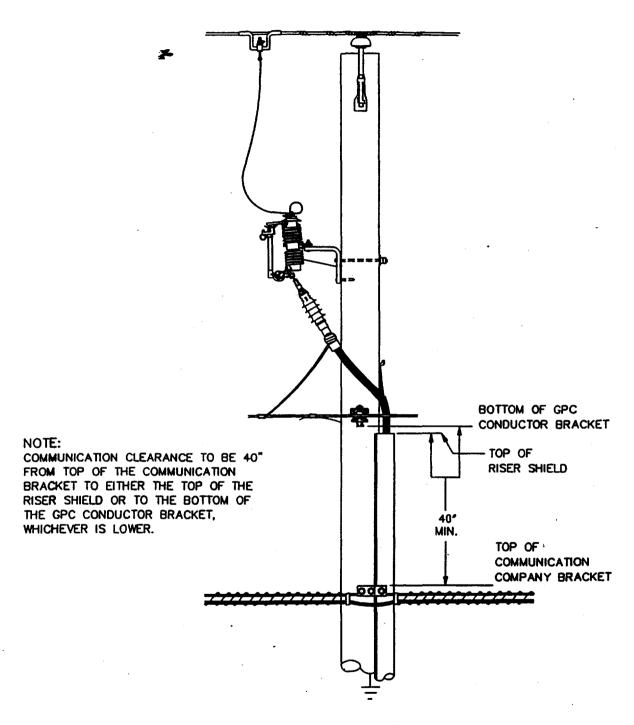


| DIMENSION (LETTER) | REQUIRED CLEARANCE | | |
|--------------------|-----------------------|--------------------|--|
| A | 40 INCHES | TABLE 238-1, 238-8 | |
| В | 4 FEET | GPC REQUIREMENT | |

DIMENSION B BASED ON ANCHOR HOLDING POWER AND CONE OF INFLUENCE OF ADJACENT ANCHORS.

| DATE 6/3/92 | GULF POWER COMPANY |
|------------------------|--------------------|
| ENG R.B. DOWN E. L. W. | |
| APPROVED _64 | |

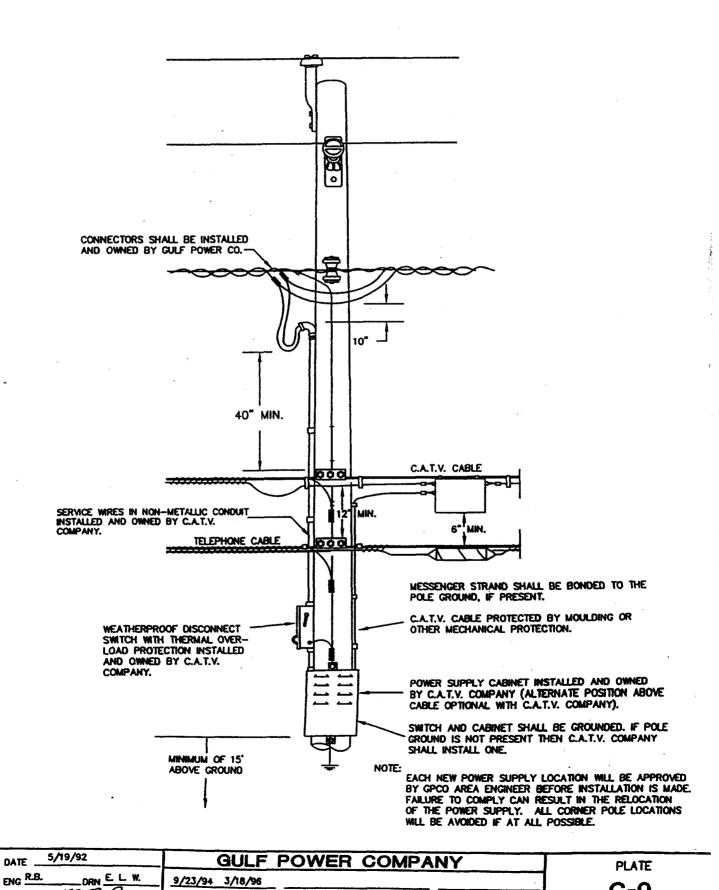
SEPARATION AT POLE UNDERGROUND RISERS



NOTE: 1. CLEARANCE IS THE CLEAR DISTANCE BETWEEN
TWO OBJECTS MEASURED SURFACE—TO—SURFACE.

| DATE 8/23/95 | GULF POWER COMPANY | PLATE |
|---------------------|--------------------|-------|
| ENG R.B. DRN E.L.W. | _3/18/96 | 0.0 |
| APPROVED 77777 | | C-8 |

COMMUNICATION/SIGNAL TYPE ATTACHMENT C.A.T.V. POWER SUPPLY INSTALLATION



_ mnn

C-9